

C. The Constitutional Court

The Constitutional Court operates on the basis of a federal constitutional law passed in 1994, which gives it jurisdiction over:

- cases concerning the constitutionality of federal laws and normative acts issued by the President, Government of the Russian Federation,

- Federation Council and State Duma; the constitutions and charters of the constituent units (“subjects”) of the Russian Federation, and laws and normative acts of those units issued on matters in the joint control of the Federation and its subjects or in an area of jurisdiction belonging to the Federation; treaties and agreements between the Federation and its constituent parts and among the subjects of the Federation; and international treaties of the Russian Federation that have not entered into force;
- cases concerning a dispute about competences between federal bodies, between a federal body and a subject of the Federation, and between the highest bodies of state power of the subjects of the Federation;
- cases concerning a dispute about competences between federal bodies, between a federal body and a subject of the Federation, and between the highest bodies of state power of the subjects of the Federation;
- cases concerning a request for an interpretation of the Constitution of the Russian Federation; and
- cases concerning verification of the constitutionality of a law applied or subject to application in a specific case.

Individual citizens and legal entities have standing to submit complaints only concerning cases in the last category. It is under this provision that the Constitutional Court may provide a forum for challenge of laws or other legal acts that the petitioner believes are not consistent with the Constitution of the Russian Federation.






1. Standing

Standing to submit a petition to the Constitutional Court is strictly limited by the Law on the Constitutional Court, and for most of the types of cases over which it has jurisdiction, is defined by a specific list of state bodies and officials authorized to submit an inquiry or complaint. The review of cases concerning violation of constitutional rights and freedoms by a law applied or subject to application in a case is not, however, limited to cases submitted by a specific list of parties. (It is difficult to imagine how this might be done without arbitrary denial of review concerning some rights or some parties.) For this group of cases — the only one with which we are concerned — standing to submit a petition is limited to those individuals and/or entities whose rights have been violated (will be violated). In order to ensure that those submitting the petition do, in fact, meet this requirement, documentary confirmation must be provided that the legal act being challenged has been applied in a case or is subject to application in a case, and that the individuals or entities submitting the petition are those whose rights have been or will be violated. The petition is not, however, considered to be a direct appeal of the decision of another court or body. Indeed, the Constitutional Court has no power to review the decisions of other courts and can rule only on the constitutionality of the act in question.

A business entity is considered to possess constitutional rights and obligations, to the extent that such rights and obligations are consistent with the nature of the entity. Such entities have standing to submit a petition to the Constitutional Court concerning the violation of those rights which can be possessed. In addition, a petition may be submitted by individuals who are participants in the business entity (partners, founders, shareholders) on the basis of violations of their rights as individuals.

2. Scope of Review

The Constitutional Court's jurisdiction in such cases is limited to the review of the constitutionality of the law or legal act in question. This review, however, includes a number of aspects of the constitutionality of the legal act, including:

-  constitutionality of the substantive content of the act (content of its norms);
-  constitutionality of the form of the act (i.e. whether the legal rules contained in the challenged act may be established by a legal act of the corresponding type and level);
-  constitutionality of the procedure of its passage, including the adoption, confirmation, signing, publication and entry into force;
-  constitutionality from the point of view of consistency with the balance of powers and division of authority between federal bodies of power as established by the constitution;
-  constitutionality from the point of view of consistency with the division of the subjects of jurisdiction and authority between federal bodies and the subjects of the Federation.

3. Procedure for Submission and Consideration of a Petition

A petition to the Constitutional Court must be filed in written form and must contain the information and appendices listed in the checklist below. In addition to the appendices listed, the petitioner may append other documents concerning the case to the petition, including proposals concerning witnesses or experts to be called, or other materials related to the petition. **Petitions submitted by individuals must be submitted in three copies, while those submitted by legal entities must be submitted in thirty copies.**

The Constitutional Court may reject a petition immediately if it is clearly not within the Court's jurisdiction, is in the wrong form, was filed by an improper party, or there is no evidence of payment of the state filing fee. If the petition is not returned on one of these formal grounds, it must next go through a process designed to determine whether the petition should be considered on its merits by the Court. The Chair of the Court assigns a preliminary review of the case to one or more of the judges, which must be

completed within two months. The conclusions of the preliminary review are presented to a plenary session of the Court, and a decision concerning acceptance of the case for consideration in its substance must be made within a month of that presentation.

CHECKLIST FOR A FILING WITH THE CONSTITUTIONAL COURT
Information Required in the Filing

- ☐ indication of the Constitutional Court as the court to which it is being submitted
- ☐ name of the petitioner, address and other information concerning the petitioner; any necessary information on the representative of the petitioner (if applicable) and his authority
- ☐ name and address of the state body which issued the act being challenged
- ☐ provisions of the Constitution of the Russian Federation and of the Law on the Constitutional Court which indicate the right to make recourse to the Constitutional Court in the given case
- ☐ the exact name, date of adoption, number, source of publication, and other information concerning the challenged act
- ☐ the specific grounds, under the Law on the Constitutional Court, for the consideration of the petition
- ☐ statement of the position of the petitioner and justification of that position, referring to the relevant provisions of the Constitution
- ☐ the demand made by the petitioner concerning the case, which in this type of case would be that the act be recognized as unconstitutional
- ☐ a list of the documents appended to the petition

In Addition, The Petitioner Must Submit as Appendices:

- ☐ the text of the act being challenged
- ☐ a copy of an official document confirming the application or possibility of application of the law or act that is the subject of the petition to the resolution of a specific case
- ☐ a power of attorney for a representative (if applicable)
- ☐ a document confirming payment of the state filing fee (15 times the minimum monthly wage for entities or one minimum wage for an individual citizen)
- ☐ a translation into Russian of any documents in other languages

If the Court accepts the case for decision on its merits, it is assigned for preparation to one or more reporting judges. The reporting judge(s) study the case and ensure that the necessary materials are collected and witnesses, parties and experts called to appear at the court session for its consideration. The reporting judge(s) also present the case to the rest of the members of the Court at the session in which it is heard.

The case will be heard in a session of one of the two chambers of the Court, which are made up of one half of the Court's members. Only one case is heard during any given session, and during the session the reporting judge(s), the parties, and other invited persons (experts, witnesses) will be heard and questions may be asked by the Court. Decisions are made by a majority vote of the chamber in a closed deliberation. The results of the vote are not to be revealed, although judges have the right (but not the obligation) to set forth a special opinion in the case if they are not in agreement with part or all of the decision of the Court. If the majority of the judges believe that the correct decision in the case is one which is not consistent with a legal position previously expressed by the Court, the case cannot be resolved by the chamber and must be transferred to the plenary session of the Court for consideration by all of its members. There are no time limits imposed upon the hearing of the case or the period within which the decision must be made.

4. Effect of Filing and Effects of Ruling

If a case giving rise to the petition to the Constitutional Court (that is, the case in which the challenged legal act is subject to being applied) is still in the process of consideration in another court, the acceptance of a petition in the Constitutional Court does not require the suspension of the case. The Constitutional Court must notify the court in which the case is being considered of the acceptance of the petition, and the court has the right, but no obligation, to suspend the case until the issuance of a decree by the Constitutional Court.

A legal act, or individual provisions thereof, found by the Constitutional Court to be unconstitutional loses its legal force and may not be applied in the specific case at issue nor in other pending cases nor by state bodies other than the courts. The Constitutional Court, as it is not a court of appeal, issues only its decree on the constitutionality of the relevant legal act(s), and does not issue a decision directly addressing the rights and obligations of the specific parties to the case in any other respect.